

PATENT  
Attorney Docket No. 25,835-11

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 5,750,338 )

Inventors: Collins et al. )

Issue Date: May 12, 1998 )

For: TARGET AND BACKGROUND  
CAPTURE METHODS WITH  
AMPLIFICATION FOR  
AFFINITY ASSAYS )

## CERTIFICATE

MAY 12 1999

## OF CORRECTION

Attn: Certificate of Correction Branch

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

REQUEST FOR CERTIFICATE OF CORRECTION

Pursuant to 35 U.S.C. § 254 and 37 C.F.R. § 1.322, this is a request for the issuance of a Certificate of Correction in the above-identified patent. Two (2) copies of PTO Form 1050 are appended. The complete Certificate of Correction involves 1 page.

The mistakes identified in the appended Form are of minor character, and resulted from errors made in good faith by patentees.

REMARKS

Patentees are filing herewith petitions to amend and amendments to abandoned U.S. applications Serial No. 08/124,826, filed September 21, 1993, Serial No. 07/946,749, filed September 17, 1992, and Serial No. 07/648,468, filed January 31, 1991. These petitions and amendments are for the purpose of claiming the benefit under 35 U.S.C. § 120 of the aforementioned three applications, as well as applications Serial Nos.

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650-849-6500

APPROVED

AUG 10 1999

MAY 10 1999  
U.S. PAT. & T.M.FAX RECEIVED  
APR 28 1999  
PETITIONS OFFICE

07/644,967, filed January 22, 1991, 07/136,920, filed December 21, 1987, and 06/922,155, filed October 23, 1986.

U.S. Patent No. 5,750,338 issued from an application that was originally filed on December 21, 1987 as application Serial No. 07/136,920 (see attached chart), which was a continuation-in-part of application Serial No. 06/922,155, filed October 23, 1986. Application Serial No. 07/644,967 was a continuation of application Ser. No. 07/136,920 and application Serial No. 07/944,505 was a continuation of application Ser. No. 07/644,967. During prosecution of application Serial No. 07/944,505, patentees inadvertently failed to respond to the November 5, 1992 Office Action and the application was unintentionally abandoned. Patentees filed a Petition to Revive the application but the petition was barred by 37 C.F.R. § 1.137(b) because it was filed more than one year after the date the application was abandoned. U.S. Patent No. 5,750,338 eventually issued from application Serial No. 08/238,080, filed May 3, 1994.

Because application Serial No. 07/944,505 was abandoned before application Serial No. 08/238,080 was filed, thus destroying copendency, the claim for benefit under 35 U.S.C. § 120 of prior applications through application Ser. No. 07/944,505 back to applications Serial Nos. 07/136,920 and 06/922,155 could not be properly made. Therefore, patentees amended the specification of application Serial No. 08/238,080 to claim benefit under 35 U.S.C. § 120 of a chain of related applications, beginning with application Serial No. 08/400,657, that also originated from applications 06/922,155 and 07/136,920 (see attached chart). This chain of related applications was first filed on January 31, 1991 as application Serial No. 07/648,468. Application Serial No.

07/648,468 was filed as a continuation-in-part of applications 06/922,155 and 07/136,920, and specifically incorporated by reference the disclosures of those applications. Accordingly, because application Serial No. 07/648,468, and subsequently filed applications in that chain, including application Ser. No. 08/400,657, incorporated by reference the disclosure of application Serial No. 07/136,920, those applications provide proper § 112 support for the claims of U.S. Patent No. 5,750,338.

This Certificate of Correction and the accompanying petitions and amendments to abandoned applications are being filed because (1) application Serial No. 08/400,657 was not pending as of May 3, 1994, the filing date of application Serial No. 08/238,080, and (2) applications Serial Nos. 06/922,155 and 07/136,920 were not pending as of the filing date of application Serial No. 07/648,468. These errors were made inadvertently by patentees and in good faith. Patentees first became aware of error (1) after allowance of application Serial No. 238,080. An Amendment After Allowance was filed on December 10, 1997 to correct this error but the amendment was apparently never entered by the Patent Office. Patentees only recently became aware of error (2) and the resulting copendency problem after a review of the prosecution history of U.S. Patent No. 5,750,338 in consideration of possible litigation.

Issuance of the Certificate of Correction containing the correction is earnestly requested.

A check in the amount of \$100 (the fee set forth in 37 C.F.R. § 1.20(a)) is appended to cover the costs of issuing this Certificate.

07/648,468 was filed as a continuation-in-part of applications 06/922,155 and 07/136,920 and specifically incorporated by reference the disclosures of those applications. Accordingly, because application Serial No. 07/648,468, and subsequently filed applications in that chain, including application Ser. No. 08/400,657, incorporated by reference the disclosure of application Serial No. 07/136,920, those applications provide proper § 112 support for the claims of U.S. Patent No. 5,750,338.

This Certificate of Correction and the accompanying petitions and amendments to abandoned applications are being filed because (1) application Serial No. 08/400,657 was not pending as of May 3, 1994, the filing date of application Serial No. 08/238,080, and (2) applications Serial Nos. 06/922,155 and 07/136,920 were not pending as of the filing date of application Serial No. 07/648,468. These errors were made inadvertently by patentees and in good faith. Patentees first became aware of error (1) after allowance of application Serial No. 238,080. An Amendment After Allowance was filed on December 10, 1997 to correct this error but the amendment was apparently never entered by the Patent Office. Patentees only recently became aware of error (2) and the resulting copendency problem after a review of the prosecution history of U.S. Patent No. 5,750,338 in consideration of possible litigation.

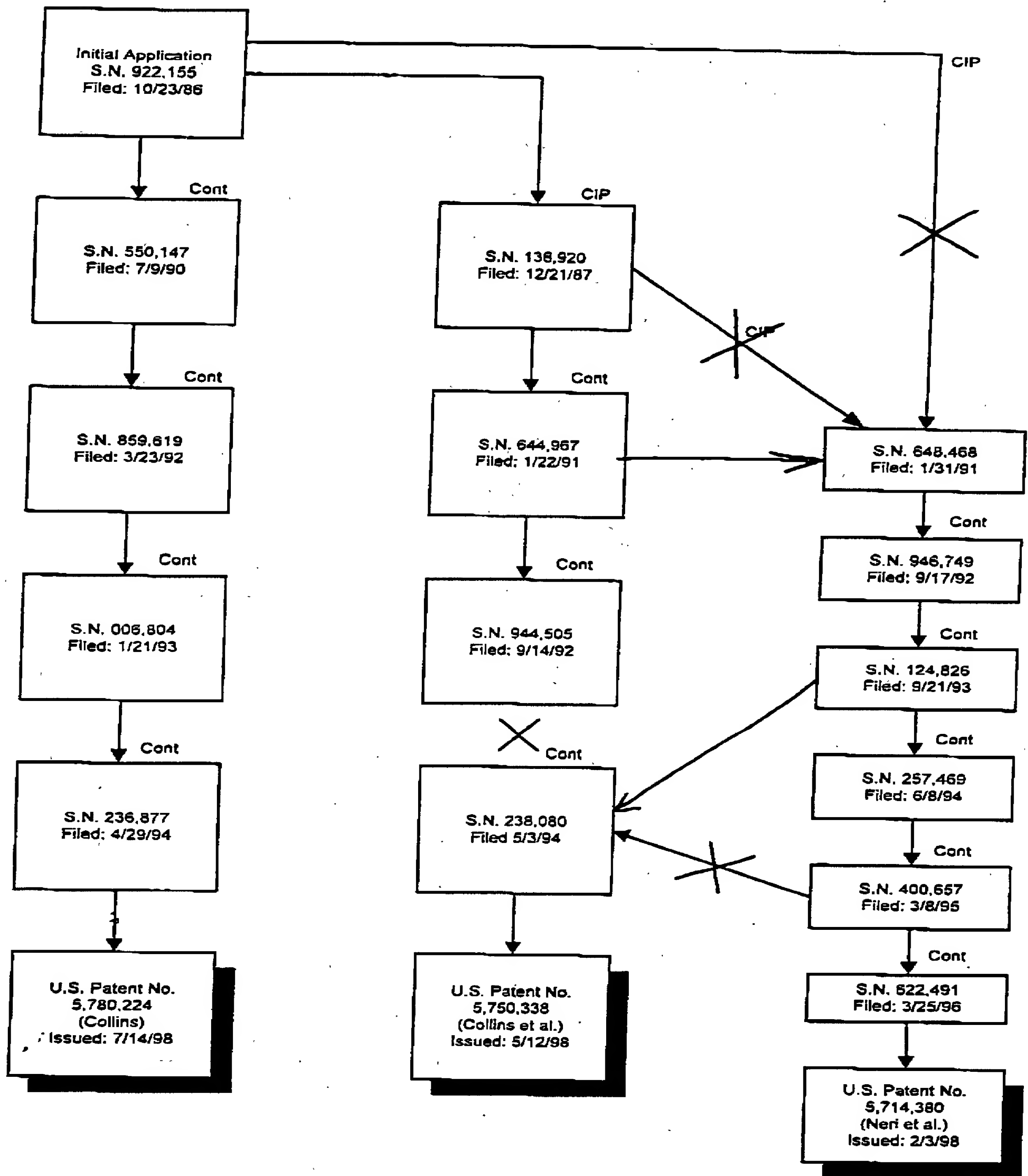
Issuance of the Certificate of Correction containing the correction is earnestly requested.

A check in the amount of \$100 (the fee set forth in 37 C.F.R. § 1.20(a)) is appended to cover the costs of issuing this Certificate.

LAW OFFICES  
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UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION

PATENT NO. : 5,750,338

DATED : May 12, 1998

INVENTOR(S) : Collins et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please delete the Related U.S. Application Data [62] in its entirety and replace with:

--Continuation of Ser. No. 124,826, Sept. 21, 1993, abandoned, which is a continuation of Ser. No. 946,749, Sept. 17, 1992, abandoned, which is a continuation of Ser. No. 648,468, Jan. 31, 1991, abandoned, which is a continuation-in-part of Ser. No. 644,967, Jan. 22, 1991, abandoned, which is a continuation-in-part of Ser. No. 136,920, Dec. 21, 1987, abandoned, which is a continuation-in-part of Ser. No. 922,155, Oct. 23, 1986, abandoned.--

Please delete col. 1, lines 5-19, and replace with:

--This application is a continuation of application Ser. No. 124,826, filed Sept. 21, 1993, now abandoned, which is a continuation of application Ser. No. 946,749, filed Sept. 17, 1992, now abandoned, which is a continuation of application Ser. No. 648,468, filed Jan. 31, 1991, now abandoned, which is a continuation-in-part of application Ser. No. 644,967, filed Jan. 22, 1991, now abandoned, which is a continuation of application Ser. No. 136,920, filed Dec. 21, 1987, now abandoned and hereby incorporated by reference, which application is a continuation-in-part of application Ser. No. 922,155, filed Oct. 23, 1986, now abandoned and hereby incorporated by reference.--

MAILING ADDRESS OF SENDER:

PATENT NO. 5,750,338

No. of add'l copies  
@ 50c per page



FINNEGAN, HENDERSON, FARABOW  
GARRETT & DUNNER, L.L.P.

1300 I Street, N.W.  
Washington, D.C. 20005-3315

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WASHINGTON, D.C. 20005

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OF

COMMISSIONER OF PATENTS AND TRADEMARKS

*Thomas H. Jenkins*

VOID AFTER 180 DAYS

⑈00016487⑈ ⑆054000522⑆ 206744587⑈

FINNEGAN, HENDERSON, FARABOW  
GARRETT & DUNNER, L.L.P.

DETACH AND RETAIN THIS STATEMENT  
THE ATTACHED CHECKS IS IN PAYMENT OF ITEMS DESCRIBED BELOW.  
IF NOT CORRECT PLEASE NOTIFY US PROMPTLY. NO RECEIPT DESIRED.

016487

VENDOR I.D.#/GL#	INVOICE DATE	INVOICE #	INVOICE AMOUNT
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Heidi			100.00



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT NO. : 5,750,338

Page 2 of 2

DATED : May 12, 1998

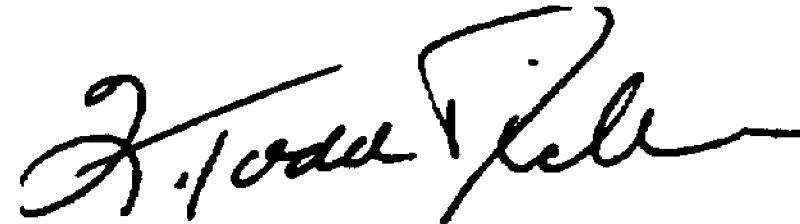
INVENTOR(S) : Collins et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:  
by reference.--

RECEIVED SEP 14 1999

Signed and Sealed this  
Seventh Day of September, 1999

Attest:



Q. TODD DICKINSON

Attesting Officer

Acting Commissioner of Patents and Trademarks

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 6-16-99  
 TO : Supervisor, Art Unit 1807  
 SUBJECT: Certificate of Correction Request in Patent No. 5750338

**EXPEDITE**

**EXPEDITE**

A response to the following question(s) is requested with respect to the accompanying request for a certificate of correction.

- ☐ 1. Would the change(s) requested under 37 CFR 1.323 constitute new matter or require reexamination of the application?
- ☐ 2. Would the change(s) requested under 37 CFR 1.323 Materially affect the scope or meaning of the claims allowed by the examiner in the patent?
- ☐ 3. Applicant disagrees with change(s) initialed and dated by Examiner in lieu of an Examiner's Amendment. Should the change request be granted?
- ☒ 4. With respect to the change(s) requested, correcting Office errors, should the patent read as shown in the certificate of correction? *Cont. date*
- ☐ 5. If the amendment filed \_\_\_\_\_ had been considered by the Examiner, would the amendment have been entered?

PLEASE RESPOND WITHIN 7 DAYS AND RETURN THE FILE TO  
 ROOM 918, PK III

*Magdalene Talley*

Legal Instrument Examiner

**EXPEDITE**

TO: CERTIFICATE OF CORRECTION BRANCH

DATE: 7/19/99

The decision regarding the change(s) requested in the certificate of correction is shown below.

- |  |                             |   |
|--|-----------------------------|---|
| <input type="checkbox"/> 1. YES            | <input type="checkbox"/> NO | <input type="checkbox"/> Comments below |
| <input type="checkbox"/> 2. YES            | <input type="checkbox"/> NO | <input type="checkbox"/> Comments below |
| <input type="checkbox"/> 3. YES            | <input type="checkbox"/> NO | <input type="checkbox"/> Comments below |
| <input checked="" type="checkbox"/> 4. YES | <input type="checkbox"/> NO | <input type="checkbox"/> Comments below |
| <input type="checkbox"/> 5. YES            | <input type="checkbox"/> NO | <input type="checkbox"/> Comments below |

☐ Comments SZ to me 7-21-99

*WJL*  
 Supervisor

1655  
 Art Unit